

Message Text

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65-61

ORIGIN EB-07

INFO OCT-01 ARA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

 DOTE-00 INR-07 NSAE-00 FAA-00 L-02 SS-15 NSC-05 PA-01

 PRS-01 USIA-06 /053 R

DRAFTED BY EB/AN:AJRIMAS:DAP

APPROVED BY EB/AN:WBCOBB

ARA/BR - J. SLATTERY

CAB - D. LITTON

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R 101902Z FEB 75

FM SECSTATE WASHDC

TO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

INFO AMEMBASSY BRASILIA

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E.O. 11652:N/A

TAGS: EAIR, BR

SUBJECT:PAN AM'S CONGONHAS PROBLEM

REF: A) RIO DE JANEIRO 423; B) RIO DE JANEIRO 419;

C) SAO PAULO 355

1. DEPARTMENT APPROVES COURSE OF ACTION RE PAA COUNTER-
SPACE ALONG LINES RECOMMENDED REF C.

2. CONGEN RIO DE JANEIRO COMMENTSTO CALDAS SANTOS AS RE-
PORTED REF B WERE APPROPRIATE. CONGEN SHOULD CONTINUE
TO ENGAGE HIM IN DIALOGUE AND ATTEMPT TO FORESTALL, IF
POSSIBLE, FINAL DECISION BY GOB TO GIVE MORE TIME FOR US
POSITION TO BE CONSIDERED. FOLLOWING ADDITIONAL ARGUMENTS
COULD BE MADE ON BEHALF PAA:

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A) SECTION VI OF US BRAZIL AIR TRANSPORT AGREEMENT OF 1946 WOULD PERMIT IMPLEMENTATION CHANGE OF GAUGE AS CONTEMPLATED BY PAN AM. AGREEMENTS DO NOT LIMIT CHANGE OF GAUGE ONLY TO SECTORS BETWEEN TWO COUNTRIES. SUCH RESTRICTION NEITHER LISTED NOR IMPLIED. IN FACT, THERE IS EVIDENCE THAT POSSIBILITY OF CHANGE OF GAUGE ON DOMESTIC STAGE WAS CONTEMPLATED. LAST SENTENCE SECTION VI EXPRESSLY EXCLUDES

CARRIAGE OF CABOTAGE TRAFFIC. SINCE WHOLE AGREEMENT PERMITS ONLY CARRIAGE OF INTERNATIONAL TRAFFIC, IT WAS PRESUMABLY UNNECESSARY TO INSERT CABOTAGE RESTRICTION IN SECTION AT ALL. FACT THAT CABOTAGE EXCLUDED INDICATES THAT PARTIES TO AGREEMENT FORESAW POSSIBILITY OF CHANGE OF GAUGE CONFINED TO DOMESTIC SEGMENT AND FOR THIS REASON CONSIDERED IT ADVISABLE TO RESTATE CABOTAGE EXCLUSION.

B) SECTION III OF ANNEX TO BILATERAL PROVIDES TRAFFIC RIGHTS FOR US DESIGNATED AIRLINES "AT ALL AIRPORTS OPEN TO INTERNATIONAL TRAFFIC." SINCE CONGONHAS IS OPEN TO INTERNATIONAL TRAFFIC, PAA SHOULD BE PERMITTED TO SERVE IT.

C) "EQUAL OPPORTUNITY" CLAUSE IN PROTOCOL OF SIGNATURE WOULD ALSO GIVE PAA RIGHT TO SERVE CONGONHAS IN VIEW OF VARIG'S SERVICES TO THAT AIRPORT. INGERSOLL

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